

SENATE BILL No. 191

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-13-6; IC 31-37-19-1; IC 33-37; IC 35-33-8-5; IC 35-38.

Synopsis: Use of DNA evidence. Requires: (1) every individual arrested after June 30, 2016, for burglary, residential entry, a crime of violence, or a sex offense; and (2) a child found to be a delinquent child for the commission of an act that, if committed by an adult, would be burglary, residential entry, a crime of violence, or a sex offense; to provide a DNA sample. Provides for the expungement of a DNA sample taken from an individual if: (1) the individual is acquitted of all felony charges; (2) all burglary, residential entry, crime of violence, and sex offense charges are dismissed; or (3) no charges have been filed after 30 days. Requires an officer, employee, or designee who obtains a DNA sample to inform the individual of the right to DNA expungement and to provide the individual with a form that may be used for DNA expungement. Increases the DNA sample processing fee from \$2 to \$4. Allocates \$500,000 semiannually to hold harmless all funds and to provide an additional amount to the DNA processing fund. Specifies that the discovery of previously unknown crimes committed by an individual on bail may lead to revocation of bail or an increase in the amount of bail.

Effective: July 1, 2016.

Zakas

January 6, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 191

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-13-6-8, AS AMENDED BY P.L.142-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 8. (a) The superintendent may establish a data
4 base of DNA identification records of:

5 (1) convicted criminals;

6 **(2) persons arrested for:**

7 **(A) burglary (IC 35-43-2-1);**

8 **(B) residential entry (IC 35-43-2-1.5);**

9 **(C) a crime of violence (as defined in IC 35-50-1-2); or**

10 **(D) a sex offense (as defined in IC 11-8-8-5.2);**

11 **(3) certain delinquent children;**

12 ~~(2)~~ **(4) crime scene specimens;**

13 ~~(3)~~ **(5) unidentified missing persons; and**

14 ~~(4)~~ **(6) close biological relatives of missing persons.**

15 (b) The superintendent shall maintain the Indiana DNA data base.

16 (c) The superintendent may contract for services to perform DNA
17 analysis of:



(1) convicted offenders;

(2) **other persons described in** ~~under~~ section 10 of this chapter;
and

(3) **certain delinquent children described in IC 31-37-19-1;**

to assist federal, state, and local criminal justice and law enforcement agencies in the putative identification, detection, or exclusion of individuals who are subjects of an investigation or prosecution of a sex offense, a violent crime, or another crime in which biological evidence is recovered from the crime scene.

(d) The superintendent:

(1) may perform or contract for performance of testing, typing, or analysis of a DNA sample collected from a person described in section 10 of this chapter **and certain delinquent children described in IC 31-37-19-1** at any time; and

(2) shall perform or contract for the performance of testing, typing, or analysis of a DNA sample collected from a person described in section 10 of this chapter **and certain delinquent children described in IC 31-37-19-1** if federal funds become available for the performance of DNA testing, typing, or analysis.

(e) The superintendent shall adopt rules under IC 4-22-2 necessary to administer and enforce the provisions and intent of this chapter.

(f) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake.

SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. (a) This section applies to the following:

(1) **A person arrested after June 30, 2016, for burglary, residential entry, a crime of violence, or a sex offense, as described in section 8(a)(2) of this chapter.**

(+) (2) A person convicted of a felony under IC 35-42 (offenses against the person) or IC 35-43-2-1 (burglary):

(A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.

(-) (3) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1 if the felony had been in effect:



(A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

~~(3)~~ **(4)** A person convicted of a felony, conspiracy to commit a felony, or attempt to commit a felony:

(A) after June 30, 2005, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 2005, if the person is held in jail or prison on or after July 1, 2005.

(b) A person described in subsection (a) shall provide a DNA sample to the:

(1) department of correction or the designee of the department of correction if the offender is committed to the department of correction;

(2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), ~~or~~ placed on probation, or **released on bond**;

(3) agency that supervises the person, or the agency's designee, if the person is on conditional release in accordance with IC 35-38-1-27; **or**

(4) sheriff, in the case of a person arrested for burglary, residential entry, a crime of violence, or a sex offense.

A DNA sample provided under subdivision (4) may be obtained only by buccal swab. A person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

(c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake.

(d) The officer, employee, or designee who obtains a DNA sample from a person under this section shall:

(1) inform the person of the person's right to DNA expungement under section 18 of this chapter; and

(2) provide the person with a form that may be used for DNA expungement.

SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 18. (a) A person whose DNA profile has been included in the Indiana DNA data base may request expungement of the profile from the DNA data base on the



grounds that:

(1) the conviction **or adjudication as a delinquent child** on which the authority for inclusion in the Indiana DNA data base was founded has been reversed and the case has been dismissed;
or

(2) the person was arrested for burglary, residential entry, a crime of violence, or a sex offense, as described in section 8(a)(2) of this chapter, and:

(A) the person was acquitted of all felony charges;

(B) all burglary, residential entry, crime of violence, or sex offense charges in the case have been dismissed; or

(C) thirty (30) days have passed since the person's arrest and no burglary, residential entry, crime of violence, or sex offense charges have been filed against the person.

(b) All identifiable information in the Indiana DNA data base pertaining to a person requesting expungement under subsection (a) shall be expunged, and all samples from the person shall be destroyed, upon receipt of:

(1) a ~~written request for~~ **letter or form requesting** expungement under subsection (a);

(2) a certified copy of ~~the~~ **a court order or other evidence sufficient to establish or permit the superintendent to establish that:**

(A) all of the person's felony convictions or juvenile adjudications have been reversed ~~reversing and dismissing the conviction,~~ or dismissed, as described in subsection (a)(1);

(B) the person has been acquitted of all felony charges, as described in subsection (a)(2)(A);

(C) all burglary, residential entry, crime of violence, or sex offense charges in the case have been dismissed, as described in subsection (a)(2)(B); or

(D) thirty (30) days have passed since the person's arrest and no burglary, residential entry, crime of violence, or sex offense charges have been filed against the person, as described in subsection (a)(2)(C); and

(3) any other information necessary to ascertain the validity of the request.

(c) Upon expungement of a person's DNA profile from the Indiana DNA data base, the superintendent shall request expungement of the person's DNA profile from the national DNA data base.

SECTION 4. IC 10-13-6-19 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19. (a) **The DNA data**
 2 **base is confidential.** Access to the Indiana DNA data base is limited
 3 to federal, state, and local law enforcement agencies through their
 4 servicing forensic DNA laboratories.

5 (b) The superintendent shall take appropriate measures to ensure
 6 that the Indiana DNA data base is protected against unauthorized
 7 access.

8 SECTION 5. IC 10-13-6-21, AS AMENDED BY P.L.158-2013,
 9 SECTION 167, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2016]: Sec. 21. A person who knowingly or
 11 intentionally without lawful authority tampers with or attempts to
 12 tamper with any DNA sample or a container collected under section 10
 13 of this chapter **or IC 31-37-19-1** commits a Level 6 felony.

14 SECTION 6. IC 31-37-19-1, AS AMENDED BY P.L.104-2015,
 15 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2016]: Sec. 1. (a) Subject to section 6.5 of this chapter, if a
 17 child is a delinquent child under IC 31-37-2, the juvenile court may
 18 enter one (1) or more of the following dispositional decrees:

- 19 (1) Order supervision of the child by the probation department.
- 20 (2) Order the child to receive outpatient treatment:
 - 21 (A) at a social service agency or a psychological, a psychiatric,
 - 22 a medical, or an educational facility; or
 - 23 (B) from an individual practitioner.
- 24 (3) Remove the child from the child's home and place the child in
 25 another home or a shelter care facility, child caring institution,
 26 group home, or secure private facility. Placement under this
 27 subdivision includes authorization to control and discipline the
 28 child.
- 29 (4) Award wardship to a:
 - 30 (A) person, other than the department; or
 - 31 (B) shelter care facility.
- 32 (5) Partially or completely emancipate the child under section 27
 33 of this chapter.
- 34 (6) Order:
 - 35 (A) the child; or
 - 36 (B) the child's parent, guardian, or custodian;
 37 to receive family services.
- 38 (7) Order a person who is a party to refrain from direct or indirect
 39 contact with the child.
- 40 (b) If the child is removed from the child's home and placed in a
 41 foster family home or another facility, the juvenile court shall:
 - 42 ~~(A)~~ (1) approve a permanency plan for the child;



- 1 ~~(B)~~ (2) find whether or not reasonable efforts were made to
 2 prevent or eliminate the need for the removal;
 3 ~~(C)~~ (3) designate responsibility for the placement and care of the
 4 child with the probation department; and
 5 ~~(D)~~ (4) find whether it:
 6 ~~(i)~~ (A) serves the best interests of the child to be removed; and
 7 ~~(ii)~~ (B) would be contrary to the health and welfare of the child
 8 for the child to remain in the home.

9 (c) If a dispositional decree under this section:

10 (1) orders or approves removal of a child from the child's home or
 11 awards wardship of the child to a:

- 12 (A) person other than the department; or
 13 (B) shelter care facility; and

14 (2) is the first court order in the delinquent child proceeding that
 15 authorizes or approves removal of the child from the child's
 16 parent, guardian, or custodian;

17 the court shall include in the decree the appropriate findings and
 18 conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

19 (d) If the juvenile court orders supervision of the child by the
 20 probation department under subsection (a)(1), the child or the child's
 21 parent, guardian, or custodian is responsible for any costs resulting
 22 from the participation in a rehabilitative service or educational class
 23 provided by the probation department. Any costs collected for services
 24 provided by the probation department shall be deposited in the county
 25 supplemental juvenile probation services fund.

26 (e) **If a child is adjudicated to be a delinquent child under**
 27 **IC 31-37-2 for the commission of an act that, if committed by an**
 28 **adult, would be:**

- 29 (1) burglary (IC 35-43-2-1);
 30 (2) residential entry (IC 35-43-2-1.5);
 31 (3) a crime of violence (as defined in IC 35-50-1-2); or
 32 (4) a sex offense (as defined in IC 11-8-8-5.2);

33 **the juvenile court shall order the child to provide a DNA sample to**
 34 **the agency having supervision of the child or to the county sheriff.**
 35 **A child is not required to submit a blood sample under this**
 36 **subsection if doing so would present a substantial and**
 37 **unreasonable risk to the child's health.**

38 (f) **If a juvenile court orders the agency having supervision of a**
 39 **child or the county sheriff to collect a DNA sample from the child**
 40 **under subsection (e), the agency or sheriff shall comply with:**

- 41 (1) IC 10-13-6-12; and
 42 (2) the guidelines issued by the superintendent of the state



police department under IC 10-13-6-11.

(g) The person who obtains a DNA sample from a child under this section shall:

- (1) inform the child and the child's guardian of the child's right to DNA expungement under IC 10-13-6-18; and
- (2) provide the child or the child's guardian with a form that may be used for DNA expungement.

SECTION 7. IC 33-37-5-26.2, AS AMENDED BY P.L.174-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 26.2. In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have committed an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a DNA sample processing fee of ~~two dollars (\$2)~~ **four dollars (\$4)**.

SECTION 8. IC 33-37-7-9, AS AMENDED BY P.L.229-2011, SECTION 262, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state nine million ~~two seven~~ hundred seventy-seven thousand twenty-three dollars (~~\$9,277,023~~) **(\$9,777,023)** for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

- (1) the family violence and victim assistance fund established by IC 5-2-6.8-3 an amount equal to ~~eight and three-hundredths seven and sixty-two hundredths~~ percent (~~8.03%~~) **(7.62%)**;
- (2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~thirty-eight and fifty-five hundredths~~ **thirty-six and fifty-eight hundredths** percent (~~38.55%~~) **(36.58%)**;
- (3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to ~~two and fifty-six hundredths two and forty-three hundredths~~ percent (~~2.56%~~) **(2.43%)**;
- (4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~ten and twenty-seven hundredths nine and seventy-five hundredths~~ percent (~~10.27%~~) **(9.75%)**;
- (5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~eleven and ninety-three hundredths~~ **eleven and thirty-two hundredths** percent (~~11.93%~~) **(11.32%)**;



(6) the motor vehicle highway account an amount equal to ~~nineteen and forty-nine hundredths~~ **eighteen and five-tenths** percent ~~(19.49%);~~ **(18.5%);**

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~twenty-five hundredths~~ **twenty-four hundredths** percent ~~(0.25%);~~ **(0.24%);**

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to ~~one and sixty-three hundredths~~ **one and fifty-five hundredths** percent ~~(1.63%);~~ **(1.55%);** and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to ~~seven and twenty-nine hundredths~~ **twelve and one hundredths** percent ~~(7.29%);~~ **(12.01%);**

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1 three million seven hundred thousand dollars (\$3,700,000).

SECTION 9. IC 35-33-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Upon a showing of good cause, the state or the defendant may be granted an alteration or revocation of bail by application to the court before which the proceeding is pending. In reviewing a motion for alteration or revocation of bail, credible hearsay evidence is admissible to establish good cause.

(b) When the state presents additional:

(1) evidence relevant to a high risk of nonappearance, based on the factors set forth in section 4(b) of this chapter; or

(2) clear and convincing evidence:

(A) of the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B); or

(B) that the defendant otherwise poses a risk to the physical safety of another person or the community;

the court may increase bail. **If the additional evidence presented by the state is DNA evidence showing that the defendant committed additional crimes that were not considered at the time the defendant was admitted to bail, the court may increase or revoke**



bail.

(c) When the defendant presents additional evidence of substantial mitigating factors, based on the factors set forth in section 4(b) of this chapter, which reasonably suggests that the defendant recognizes the court's authority to bring the defendant to trial, the court may reduce bail. However, the court may not reduce bail if the court finds by clear and convincing evidence that the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a risk to the physical safety of another person or the community.

(d) The court may revoke bail or an order for release on personal recognizance upon clear and convincing proof by the state that:

(1) while admitted to bail the defendant:

(A) or the defendant's agent threatened or intimidated a victim, prospective witnesses, or jurors concerning the pending criminal proceeding or any other matter;

(B) or the defendant's agent attempted to conceal or destroy evidence relating to the pending criminal proceeding;

(C) violated any condition of the defendant's current release order;

(D) failed to appear before the court as ordered at any critical stage of the proceedings; or

(E) committed a felony or a Class A misdemeanor that demonstrates instability and a disdain for the court's authority to bring the defendant to trial;

(2) the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a risk to the physical safety of another person or the community; or

(3) a combination of the factors described in subdivisions (1) and (2) exists.

SECTION 10. IC 35-38-1-27, AS ADDED BY P.L.173-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 27. (a) If a court imposes a sentence that does not involve a commitment to the department of correction, the court shall require a person:

(1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~ **IC 10-13-6-10(a);** and

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6;

to provide a DNA sample as a condition of the sentence.

(b) If a person described in subsection (a) is confined at the time of sentencing, the court shall order the person to provide a DNA sample



1 immediately after sentencing.

2 (c) If a person described in subsection (a) is not confined at the time
3 of sentencing, the agency supervising the person after sentencing shall
4 establish the date, time, and location for the person to provide a DNA
5 sample. However, the supervising agency must require that the DNA
6 sample be provided not more than seven (7) days after sentencing. A
7 supervising agency's failure to obtain a DNA sample not more than
8 seven (7) days after sentencing does not permit a person required to
9 provide a DNA sample to challenge the requirement that the person
10 provide a DNA sample at a later date.

11 (d) A person's failure to provide a DNA sample is grounds for
12 revocation of the person's probation, community corrections placement,
13 or other conditional release.

14 SECTION 11. IC 35-38-2-2.3, AS AMENDED BY P.L.209-2015,
15 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2016]: Sec. 2.3. (a) As a condition of probation, the court may
17 require a person to do a combination of the following:

18 (1) Work faithfully at suitable employment or faithfully pursue a
19 course of study or career and technical education that will equip
20 the person for suitable employment.

21 (2) Undergo available medical or psychiatric treatment and
22 remain in a specified institution if required for that purpose.

23 (3) Attend or reside in a facility established for the instruction,
24 recreation, or residence of persons on probation.

25 (4) Participate in a treatment program, educational class, or
26 rehabilitative service provided by a probation department or by
27 referral to an agency.

28 (5) Support the person's dependents and meet other family
29 responsibilities.

30 (6) Make restitution or reparation to the victim of the crime for
31 damage or injury that was sustained by the victim. When
32 restitution or reparation is a condition of probation, the court shall
33 fix the amount, which may not exceed an amount the person can
34 or will be able to pay, and shall fix the manner of performance.

35 (7) Execute a repayment agreement with the appropriate
36 governmental entity to repay the full amount of public relief or
37 assistance wrongfully received, and make repayments according
38 to a repayment schedule set out in the agreement.

39 (8) Pay a fine authorized by IC 35-50.

40 (9) Refrain from possessing a firearm or other deadly weapon
41 unless granted written permission by the court or the person's
42 probation officer.



- 1 (10) Report to a probation officer at reasonable times as directed
- 2 by the court or the probation officer.
- 3 (11) Permit the person's probation officer to visit the person at
- 4 reasonable times at the person's home or elsewhere.
- 5 (12) Remain within the jurisdiction of the court, unless granted
- 6 permission to leave by the court or by the person's probation
- 7 officer.
- 8 (13) Answer all reasonable inquiries by the court or the person's
- 9 probation officer and promptly notify the court or probation
- 10 officer of any change in address or employment.
- 11 (14) Perform uncompensated work that benefits the community.
- 12 (15) Satisfy other conditions reasonably related to the person's
- 13 rehabilitation.
- 14 (16) Undergo home detention under IC 35-38-2.5.
- 15 (17) Undergo a laboratory test or series of tests approved by the
- 16 state department of health to detect and confirm the presence of
- 17 the human immunodeficiency virus (HIV) antigen or antibodies
- 18 to the human immunodeficiency virus (HIV), if:
- 19 (A) the person had been convicted of an offense relating to a
- 20 criminal sexual act and the offense created an
- 21 epidemiologically demonstrated risk of transmission of the
- 22 human immunodeficiency virus (HIV); or
- 23 (B) the person had been convicted of an offense relating to a
- 24 controlled substance and the offense involved:
- 25 (i) the delivery by any person to another person; or
- 26 (ii) the use by any person on another person;
- 27 of a contaminated sharp (as defined in IC 16-41-16-2) or other
- 28 paraphernalia that creates an epidemiologically demonstrated
- 29 risk of transmission of HIV by involving percutaneous contact.
- 30 (18) Refrain from any direct or indirect contact with an individual
- 31 and, if convicted of an offense under IC 35-46-3, any animal
- 32 belonging to the individual.
- 33 (19) Execute a repayment agreement with the appropriate
- 34 governmental entity or with a person for reasonable costs incurred
- 35 because of the taking, detention, or return of a missing child (as
- 36 defined in IC 10-13-5-4).
- 37 (20) Periodically undergo a laboratory chemical test (as defined
- 38 in IC 9-13-2-22) or series of chemical tests as specified by the
- 39 court to detect and confirm the presence of a controlled substance
- 40 (as defined in IC 35-48-1-9). The person on probation is
- 41 responsible for any charges resulting from a test and shall have
- 42 the results of any test under this subdivision reported to the



person's probation officer by the laboratory.

(21) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(22) Refrain from owning, harboring, or training an animal.

(23) Participate in a reentry court program.

(24) Receive:

(A) addiction counseling;

(B) mental health counseling;

(C) inpatient detoxification; and

(D) medication assisted treatment, including a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn good time credit while serving an intermittent term of imprisonment under this subsection. When the court orders



intermittent service, the court shall state:

- (1) the term of imprisonment;
- (2) the days or parts of days during which a person is to be confined; and
- (3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(18):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

- (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
IC 10-13-6-10(a);
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
- (3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

(h) If a court imposes a condition of probation described in subsection (a)(4), the person on probation is responsible for any costs resulting from the participation in a program, class, or service. Any costs collected for services provided by the probation department shall be deposited in the county or local supplemental adult services fund.

SECTION 12. IC 35-38-2.5-6, AS AMENDED BY P.L.126-2012, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

- (1) A requirement that the offender be confined to the offender's home at all times except when the offender is:
 - (A) working at employment approved by the court or traveling to or from approved employment;
 - (B) unemployed and seeking employment approved for the offender by the court;
 - (C) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the offender by the court;



- 1 (D) attending an educational institution or a program approved
- 2 for the offender by the court;
- 3 (E) attending a regularly scheduled religious service at a place
- 4 of worship; or
- 5 (F) participating in a community work release or community
- 6 restitution or service program approved for the offender by the
- 7 court.
- 8 (2) Notice to the offender that violation of the order for home
- 9 detention may subject the offender to prosecution for the crime of
- 10 escape under IC 35-44.1-3-4.
- 11 (3) A requirement that the offender abide by a schedule prepared
- 12 by the probation department, or by a community corrections
- 13 program ordered to provide supervision of the offender's home
- 14 detention, specifically setting forth the times when the offender
- 15 may be absent from the offender's home and the locations the
- 16 offender is allowed to be during the scheduled absences.
- 17 (4) A requirement that the offender is not to commit another
- 18 crime during the period of home detention ordered by the court.
- 19 (5) A requirement that the offender obtain approval from the
- 20 probation department or from a community corrections program
- 21 ordered to provide supervision of the offender's home detention
- 22 before the offender changes residence or the schedule described
- 23 in subdivision (3).
- 24 (6) A requirement that the offender maintain:
- 25 (A) a working telephone in the offender's home; and
- 26 (B) if ordered by the court, a monitoring device in the
- 27 offender's home or on the offender's person, or both.
- 28 (7) A requirement that the offender pay a home detention fee set
- 29 by the court in addition to the probation user's fee required under
- 30 IC 35-38-2-1 or IC 31-40. However, the fee set under this
- 31 subdivision may not exceed the maximum fee specified by the
- 32 department of correction under IC 11-12-2-12.
- 33 (8) A requirement that the offender abide by other conditions of
- 34 probation set by the court under IC 35-38-2-2.3.
- 35 (9) A requirement that an offender:
- 36 (A) who is ~~convicted of an offense described in IC 10-13-6-10;~~
- 37 **IC 10-13-6-10(a);**
- 38 (B) who has not previously provided a DNA sample in
- 39 accordance with IC 10-13-6; and
- 40 (C) whose sentence does not involve a commitment to the
- 41 department of correction;
- 42 provide a DNA sample.



1 SECTION 13. IC 35-38-2.6-3, AS AMENDED BY P.L.179-2015,
 2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2016]: Sec. 3. (a) The court may, at the time of sentencing,
 4 suspend the sentence and order a person to be placed in a community
 5 corrections program as an alternative to commitment to the department
 6 of correction. The court may impose reasonable terms on the placement
 7 or require the director of the community corrections program to impose
 8 reasonable terms on the placement. A court shall require a person:

9 (1) ~~convicted of an offense who is~~ described in ~~IC 10-13-6-10;~~
 10 **IC 10-13-6-10(a);**

11 (2) who has not previously provided a DNA sample in accordance
 12 with IC 10-13-6; and

13 (3) whose sentence does not involve a commitment to the
 14 department of correction;

15 to provide a DNA sample as a term of placement.

16 (b) Placement in a community corrections program under this
 17 chapter is subject to the availability of residential beds or home
 18 detention units in a community corrections program.

19 (c) A person placed under this chapter is responsible for the person's
 20 own medical care while in the placement program.

21 (d) Placement under this chapter is subject to the community
 22 corrections program receiving a written presentence report or
 23 memorandum from a county probation agency.

